

California Regional Water Quality Control Board
Santa Ana Region

November 5, 2004

ITEM: 10

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Mary and Albert Johnson, 1009 Crestbrook Drive, Riverside, Riverside County, APN 268-223-013

DISCUSSION:

On October 1, 2004, Mary Johnson contacted staff requesting approval for the use of a second septic tank-subsurface disposal system at the above-referenced site. Mr. & Mrs. Johnson reside in a 6-bedroom, 6-bath house located at the site. An existing subsurface disposal system is utilized for the discharge of domestic waste from the house. The property is less than one acre in size (35,283 sq ft or 0.81 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic wastes.

Mr. & Mrs. Johnson are constructing a pool on their property with an adjacent bath house/game room. An individual 750-gallon septic tank-subsurface disposal system is proposed to be installed to serve the bath house/game room.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was appropriate to distinguish between “existing” developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and “new” developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to “new” developments.

The Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a “new” development. The intent of distinguishing between additions that are attached to existing dwellings and freestanding

structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows. The proposed bath house/game room on Mr. and Mrs. Johnson's property would be a freestanding structure. As such, the project as a whole (the existing house and the bath room/game room) must now be considered a "new" development to which the one-half acre minimum lot size requirement applies. With a density of 0.405 acres per dwelling unit, the Johnson's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. and Mrs. Johnson's request for an exemption from the minimum lot size requirements.

The purpose of the bath house/game room is to provide a convenient bathroom and entertainment area near the proposed pool so that guests would not need to walk up to the house to use the facilities. The bath house/game room will have a toilet, sink and shower in the bathroom and a wet bar sink in the game room. Mr. & Mrs. Johnson have assured staff that the 359 sq. ft bath house/game room will not be used as a second dwelling.

On June 3, 2004, Mr. & Mrs. Johnson received approvals from the City of Riverside for construction of their new pool and the bath house/game room, and construction has already begun. On September 20, 2004, the County advised the Johnsons that the project did not comply with the Regional Board's minimum lot size requirements for septic system use. The project now sits half completed.

RECOMMENDATION:

Approve Mr. and Mrs. Johnson's request for an exemption from the minimum lot size requirements based on the following:

- The bath house/game room will not be used as a second dwelling unit, and
- The lot is only 8,277 sq. ft short of the required one acre.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys
City of Riverside Building and Safety